

Notice of Allowability**Application No.**

10/017,498

Examiner

Calvin L. Hewitt II

Applicant(s)

PENCE ET AL.

Art Unit

3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 17 March 2006.
2. ☒ The allowed claim(s) is/are 2-6,8,9,11,13-18,21 and 23.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

Status of Claims

1. Claims 2-6, 8, 9, 11, 13-18, 21 and 23 have been examined.

Examiner's Amendment

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Louis DelJuidace on 17 March 2006.

The Application has been amended as follows:

21. (Twice Amended) An apparatus for providing dynamic renewability for content provided from a content provider to a user, comprising:

a content provider system, said content provider system including:

a content server, [operable] for storing and retrieving content items;

a communication server, communicating with said user, said

communication server receiving content items from said content server and

communicating said content items to said user; and

a license server, monitoring an amount and a type of content communicated to said user, said license server having stored thereon one or more license files, each said license file containing one or more parameters relating to one of said content items including information regarding the content and a date;

and a user system, said user system including:

a communication application, communicating with said communication server in order to receive content items and license files;

a client application running on said user system receiving said license files and a user input and providing said user input to said communication application;

a license storage, storing said one or more license files on said user system;

a content information storage, storing information regarding content items requested by said user and received from said content provider system; and

a registry storing said date;

wherein said content provider system comprises a device to transmit said license files to said user without notifying said user.

3. Claims 2-6, 8, 9, 11, 13-18, 21 and 23 have been allowed

Reasons for Allowance

4. The instant application is directed to software licensing. Software licensing systems are old and well known. Kristin Marks in her article ("Pleased to meter you"- Network World, v12n50 p53-57, Dec 11, 1995) reviews several prior art licensing applications: Express Meter, SiteMeter, SofTrack and CentaMeter. SiteMeter ("Pleased...", page 3, paragraph four), SofTrack ("Pleased...", page 4, paragraph seven) and CentaMeter ("Pleased...", page 5, paragraph ten) teach monitoring licensed software applications while, Express Meter provides a cost savings module for comparing license usage with total cost of all licenses and a compliance report for displaying exceeded license counts ("Pleased...", page 2, paragraph six). Horstmann (U.S. 6,009,401) teaches automatically relicensing software and Coley et al. (US 5,790,664) teach transparently transmitting license files to a user ('664, column 4, lines 22-40), however, neither Horstmann nor Coley et al. disclose transmitting license files "without notifying a user". In Horstmann, relicensing is initiated by an end user, hence the user has knowledge of the transmission ('401, column 4, lines 12-14), while in Coley et al. "transparently" is defined as "seemless" or without difficulty (see www.webopedia.com, Microsoft Press Dictionary definitions, Final Office Action dated 7-13-04).

In the back and forth between Applicant and Examiner much was made over the terms “transparently” and “without notifying the user”. In the originally filed claims Applicant recited transparently renewing and transmitting license files. Applicant intended the term “transparently” to be interpreted as “without notifying the user”, however the Examiner did not agree with this definition. Nor did the Specification recite “transparently”. However, the Specification did recite “transmitting license files to a user without notifying the user (Specification, page 8, line 8) and as the claims are part of the original Disclosure, the Applicant was able to incorporate the language from the claims into the Specification by amendment. The Applicant expressed it was Applicant’s intent for the language “without notifying a user” to be understood as transmitting license files to the user without the user’s knowledge (Remarks 10-01-03, page 9, second full paragraph). Therefore, the Examiner is interpreting transmitting “license files to said user without notifying the user” as the license files being transmitted to the user and the user does not expect such a transmission (i.e. without the user’s knowledge). In accordance with this analysis claim 21 has been amended to replace “transparently” with “without notifying the user”. And, while presumably a user could eventually find these license files once the files reside on the user’s computer, this is moot, as the Applicant is not claiming *preventing a user from finding* stored license files.

Therefore, the present apparatus and method is distinguished from the prior art as the prior art does not teach nor fairly suggest transmitting without notifying the user license files that contain information about the licensed content and a date wherein the license file is received at a client running on a user computer and stored in a license storage database, content information is stored in a content information database and the date is stored in a registry.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:
 - Hatanaka et al. disclose a license management system where a client running on a user computer sends a license request to a server
 - Duvvoori et al. teach hiding licensed applications on a user computer
6. Any comments considered necessary by Applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

7. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Calvin Loyd Hewitt II whose telephone number is (571) 272-6709. The Examiner can normally be reached on Monday-Friday from 8:30 AM-5:00 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, James P. Trammell, can be reached at (571) 272-6712.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
c/o Technology Center 3600
Washington, D.C. 20231

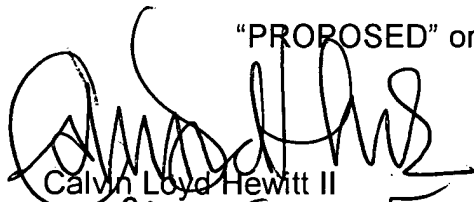
or faxed to:

(571) 273-8300 (for formal communications intended for entry and after-final communications),

or:

(571) 273-6709 (for informal or draft communications, please label

"PROPOSED" or "DRAFT")


Calvin Loyd Hewitt II
Primary Examiner
March 22, 2006